

IN RE: PETITION FOR SPECIAL EXCEPTION  
W/S West Liberty Road, 2150' S  
of the Maryland/Pennsylvania  
State Line  
7th Election District  
3rd Councilmanic District  
Lee O. Freeman, et ux  
Petitioners

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 88-333-X

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

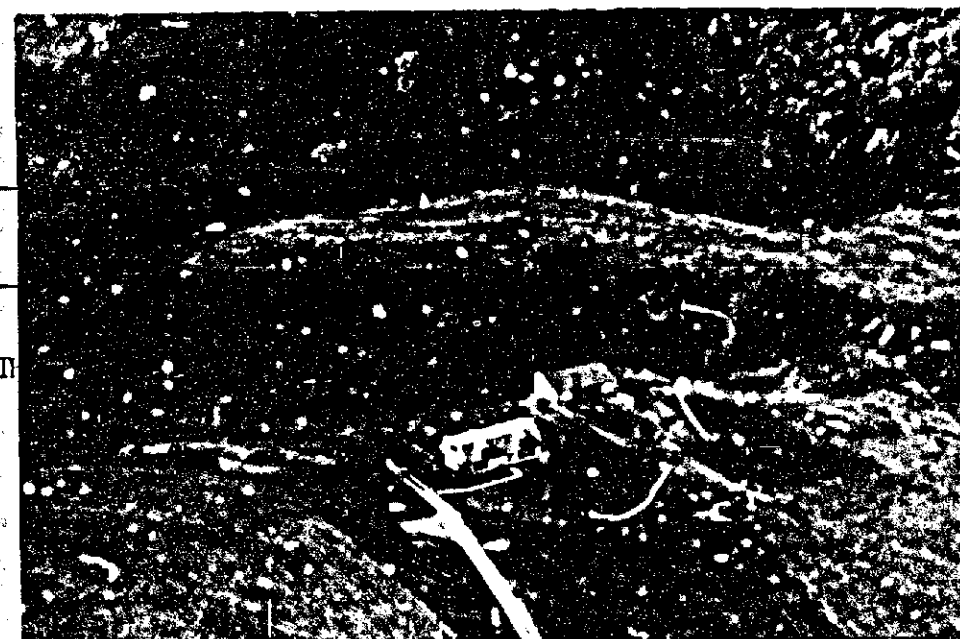
The Petitioners herein request a special exception for a kennel as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Mrs. Elizabeth J. Freeman, appeared, testified and was represented by David J. Preller, Sr., Esquire. There were no Protestants.

Testimony indicated that the subject property, zoned R.C. 2, consists of approximately 19 acres and is currently improved with a two-story dwelling and a detached concrete block barn with attached dog runs. The subject property is serviced by a driveway in excess of 600 feet in length. The Petitioner owns eight show dogs that she cares for and boards at the subject site. No commercial boarding, breeding or grooming takes place on the subject property and there is no commercial activity connected with her dogs conducted on site. Mrs. Freeman considers herself a dog fancier and not a breeder by definition.

The Petitioner testified as to the requirements of Section 502.1 and indicated that the subject site either does or will comply with all prerequisites of that Section if the subject special exception is granted.

In their Zoning Plans Advisory Committee comments dated November 24, 1987, the Baltimore County Fire Department indicated that the service road to the subject property must be improved to meet fire safety codes. At the time of the hearing, additional information was presented, identified herein as Petitioner's Exhibit 2, in which Captain Joseph Kelly indicates that the crusher run road now in existence is adequate for fire safety purposes.



DON LYNCH & ASSOCIATES, INC.  
CONSTRUCTION LAYOUT  
4907 HARFORD ROAD  
BALTIMORE, MARYLAND 21214  
TEL 254-4936

November 6, 1987

Being all that parcel hereby described lying in the 7th Election District Baltimore County, Maryland.

Beginning for the same at a point on the Northwest side of West Liberty Road, at a point 2150 feet ± Southeastly from the Maryland and Pennsylvania State Line and running Thence along the Northwest side of West Liberty Road.

- 1) South 18 Degrees 14 minutes 51 seconds West 278.12' Thence to West Liberty Road and Running.
- 2) North 57 Degrees 53 minutes 20 seconds West 569.41 Feet.
- 3) North 79 Degrees 31 minutes 31 seconds West 392.84 Feet.
- 4) South 49 Degrees 08 Minutes 58 seconds West 974.02 Feet.
- 5) North 16 Degrees 09 minutes 55 seconds West 501.95 Feet.
- 6) North 49 Degrees 51 minutes 14 seconds East 1164.78 Feet.
- 7) South 22 Degrees 08 minutes 29 seconds East 84.47 Feet.
- 8) South 55 Degrees 24 minutes 08 seconds East 1105.49 Feet, To The Place of Beginning.

Containing 19.098 Acres of Land More or Less.



Bourable Memo

Likewise, comments received from the Baltimore County Director of Planning indicate that the special exception should be limited to a kennel operation within specific boundaries and not the entire 19-acre tract. The Petitioner had no objection to this comment, indicating that she only wished to legalize her eight dogs, which she keeps as pets, and does not intend to run a commercial kennel. She also indicated that it is not her intention to transfer the property as a kennel operation.

It is clear that the Baltimore County Zoning Regulations (BCZR) permit the use requested by the Petitioner in an R.C. 2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated in Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 7th Date of Posting: 1/21/88  
Posted for: Special Exception  
Petitioner: Lee O. Freeman, et ux  
Location of property: W/S West Liberty Road, 2150' S MD/PA Line  
2150' W. Liberty Rd.  
Location of Sign: 1-1/2 mi. W. of subject property on W. Liberty Rd. - E. Side  
on property of Petitioner, 2150' S. Liberty Rd.  
Remarks: None  
Posted by: M. Kelly Date of return: 1/27/88

**NOTICE OF HEARING**  
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland, as follows:  
Petitioner: Lee O. Freeman, et ux  
Case number: 88-333-X  
Date: THURSDAY, FEBRUARY 25, 1988 at 11:00 a.m.  
Special Exception - Kennel (Fancier) for pets. Non-commercial, no boarding, no breeding, no grooming, etc.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., Feb. 4, 1988  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Feb. 4, 1988.

THE JEFFERSONIAN,

*Susan Shindler Shuchter*  
Publisher

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons given above, the special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 6<sup>th</sup> day of May, 1988 that a private, non-commercial kennel, in accordance with Petitioner's Exhibit 1, be approved, and as such, the Petition for Special Exception is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The special exception granted herein is for a private kennel. The Petitioner shall not operate as a commercial kennel nor conduct any commercial boarding, breeding or grooming services on the subject property.
- 3) The special exception for the proposed kennel is restricted to the areas shown in Petitioner's Exhibit 1 and identified thereon as the "Proposed Dog Run", an approximately 50' x 36' fenced in area, and the building identified as the "Existing Concrete Block Barn."
- 4) The special exception granted herein is for the Petitioner only and is not transferable to any future owner or successor in title without another public hearing to review the continued special exception use.

*J. Robert Haines*  
Zoning Commissioner of Baltimore County

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333  
J. Robert Haines  
Zoning Commissioner

February 15, 1988

Mr. & Mrs. Lee O. Freeman  
21520 West Liberty Road  
Parkton, Maryland 21120

Re: Case number: 88-333-X  
Petition for Special Exception  
W/S Liberty Road, 2150' S MD/PA Line  
7th Election District - 3rd Councilmanic District  
Petitioners: Lee O. Freeman, et ux

Dear Mr. & Mrs. Freeman:

Please be advised that \$98.02 is due for advertising and posting of the above-referenced property. All advertising and posting fees must be paid prior to the hearing. Do not remove the sign(s) from the property from the time it posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and forward to Baltimore County, Maryland  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
Room 113, Towson, Maryland 21204.

No. 45986  
DATE: 2/25/88 ACCOUNT: 88-115-000 U.S.  
AMOUNT: \$ 98.02  
RECEIVED FROM: Lee O. Freeman, et ux NES  
FOR: Robert Haines s'oner of  
COUNTY: Baltimore nty  
VALIDATION ON SIGNATURE OF CASHIER

#### PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Kennel (Fancier) For Pets, Non-Commercial  
No Boarding - No Breeding - No Grooming etc.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):	MAPING 378
(Type or Print Name)	Lee O. Freeman	E. D. <u>7th</u>
Signature	<i>Lee O. Freeman</i>	DATE: <u>7/2/87</u>
Address	Elizabeth J. Freeman	700 <u>BT</u>
City and State	(Type or Print Name)	1000 <u>BT</u>
	<i>Elizabeth J. Freeman</i>	DP: <u>BT</u>
	Signature	
Attorney for Petitioner:	21520 West Liberty Road	N-152, 236
Mr. David Preller, Sr.	Parkton, Maryland 21120	# 3000
(Type or Print Name)	City and State	357-5439
Signature	Name, address and phone number of legal owner, contract purchaser or representative to be contacted	
<i>David Preller</i>	<i>McDonald B. Richmond</i>	
15 Chesapeake Plaza	Name	
Address	3607 Oakview Ave. 71213	
Baltimore, Maryland 21201	Address	
City and State	Phone No. 835-2420	
Attorney's Telephone No.: 752-1464		

ORDERED By The Zoning Commissioner of Baltimore County, this 10<sup>th</sup> day of December, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Maryland 11:00 a.m. at 11:00 o'clock on February 25, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Maryland 11:00 a.m. at 11:00 o'clock on February 25, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in 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Baltimore County  
Fire Department  
Towson, Maryland 21204-2586  
494-4500

Paul H. Reinecke  
Chief  
J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

Re: Property Owner: Lee O. Freeman, et ux

Location: W/S West Liberty Road, 2150' S., MD/PA line

Item No.: 180

Zoning Agenda: Meeting of 11/24/87

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

( x ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy of operation.

( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED BY: *John F. O'Neill*  
Planning Group  
Special Inspection Division

Noted and Approved:

Fire Prevention Bureau

131 *Canter Run road will be maintained for access for fire dept. 1/24/88*

## PETITIONER'S EXHIBIT 2

November 24, 1987



Dennis F. Rasmussen  
County Executive

## BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 16, 1988

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

000

### MEMBERS

Bureau of Engineering  
Department of Traffic Engineering  
State Roads Commission  
Bureau of Fire Prevention  
Health Department  
Project Planning  
Building Department  
Board of Education  
Zoning Administration  
Industrial Development

David Preller, Sr., Esquire  
15 Charles Plaza  
Baltimore, Maryland 21201

RE: Item No. 180 - Case No. 88-333-X  
Petitioners: Lee O. Freeman, et ux  
Petition for Special Exception

Dear Mr. Preller:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

*James E. Dyer*  
JAMES E. DYER

Chairman  
Zoning Plans Advisory Committee

JED:kbb

Enclosures

cc: Don Lynch & Associates, Inc.  
4907 Harford Road  
Baltimore, Maryland 21214

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Office Building  
Towson, Maryland 21204  
494-3554

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

December 2, 1987



Dennis F. Rasmussen  
County Executive

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comment for items number 177, 178, 179, 180, 181, 182, and 183.

Very truly yours,

*Michael S. Flanagan*  
Michael S. Flanagan  
Traffic Engineer Associate II

MSF:ab

Baltimore County  
Fire Department  
Towson, Maryland 21204-2586  
494-4500

Paul H. Reinecke  
Chief  
J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

November 24, 1987



Dennis F. Rasmussen  
County Executive

Re: Property Owner: Lee O. Freeman, et ux

Location: W/S West Liberty Road, 2150' S., MD/PA line

Item No.: 180

Zoning Agenda: Meeting of 11/24/87

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

( x ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy of operation.

( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED BY: *John F. O'Neill*  
Planning Group  
Special Inspection Division

Noted and Approved:

Fire Prevention Bureau

/s/

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
W/S West Liberty Rd., 2150' S : OF BALTIMORE COUNTY  
MD/PA Line, 7th District :  
LEE O. FREEMAN, et ux, : Case No. 88-333-X  
Petitioners :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Phyllis Cole Friedman*  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

*Peter Max Zimmerman*  
Peter Max Zimmerman  
Deputy People's Counsel  
Room 223, Court House  
Towson, Maryland 21204  
494-2188

I HEREBY CERTIFY that on this 13th day of January, 1988, a copy of the foregoing Entry of Appearance was mailed to David J. Preller, Sr., Esquire, Suite 200, 15 Charles Plaza, Baltimore, MD 21201, Attorney for Petitioners.

*Peter Max Zimmerman*  
Peter Max Zimmerman

Baltimore County  
Zoning Commissioner  
Office of Planning and Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

May 6, 1988



Dennis F. Rasmussen  
County Executive

David J. Preller, Sr., Esquire  
15 Charles Plaza  
Baltimore, Maryland 21201

RE: Petition for Special Exception  
W/S West Liberty Road, 2150' S of the Maryland/Pennsylvania State Line  
7th Election District; 3rd Councilmanic District  
Lee O. Freeman, et ux - Petitioners  
Case No. 88-333-X

Dear Mr. Preller:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Special Exception has been Granted, subject to the restrictions noted in the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal to the County Board of Appeals. For further information on filing an appeal, please contact this office.

Very truly yours,

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
of Baltimore County

JRH:bjs  
Enclosures

cc: People's Counsel

File

88-333-X

## BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this  
10th day of December, 1987.

Petitioner: Lee O. Freeman, et ux  
Petitioner's Attorney: David Preller Sr., Esquire

Received by: James E. Dyer  
Chairman, Zoning Plans  
Advisory Committee

## BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines  
TO: Zoning Commissioner

Date: January 28, 1988

P. David Fields  
FROM: Director of Planning and Zoning

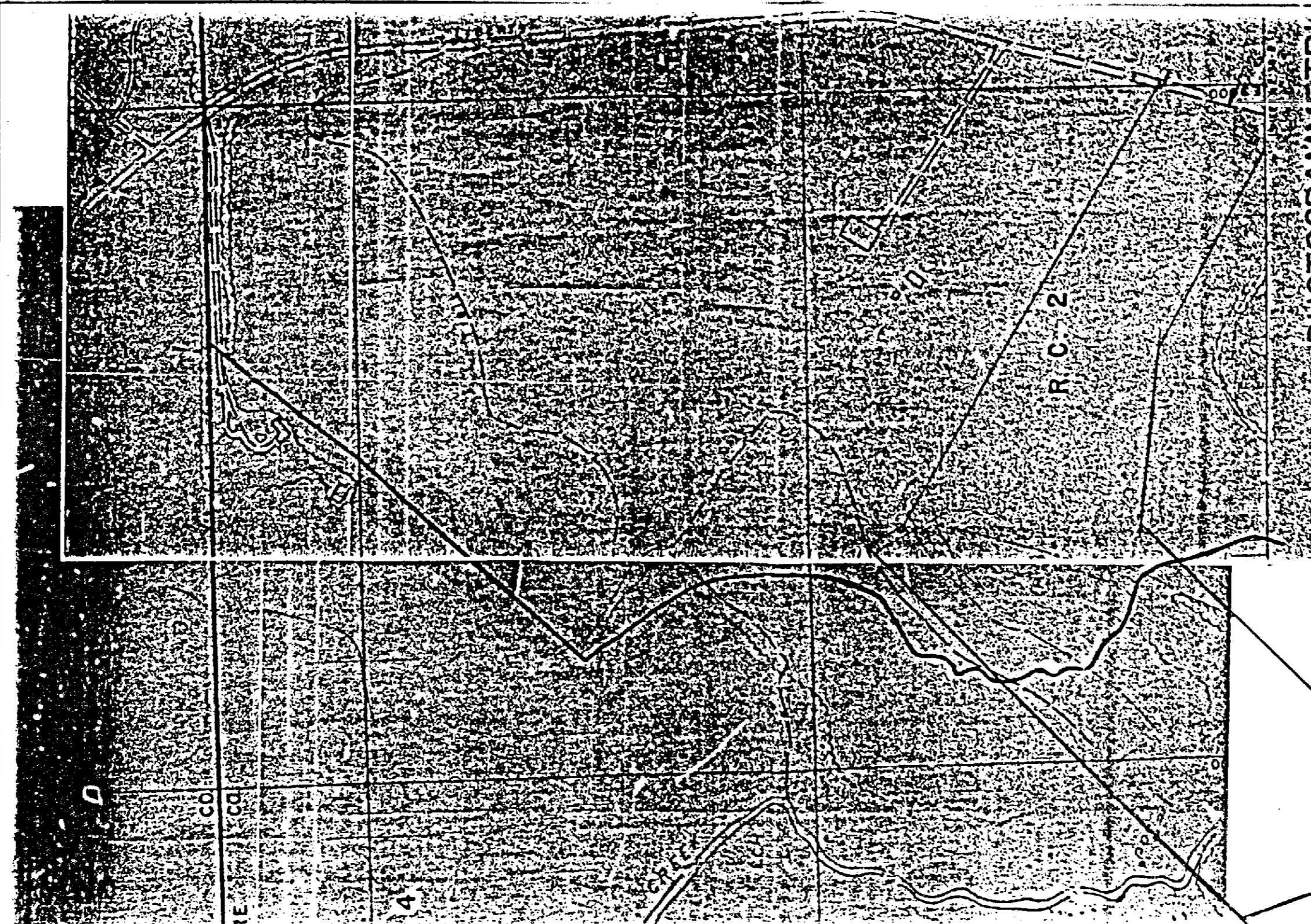
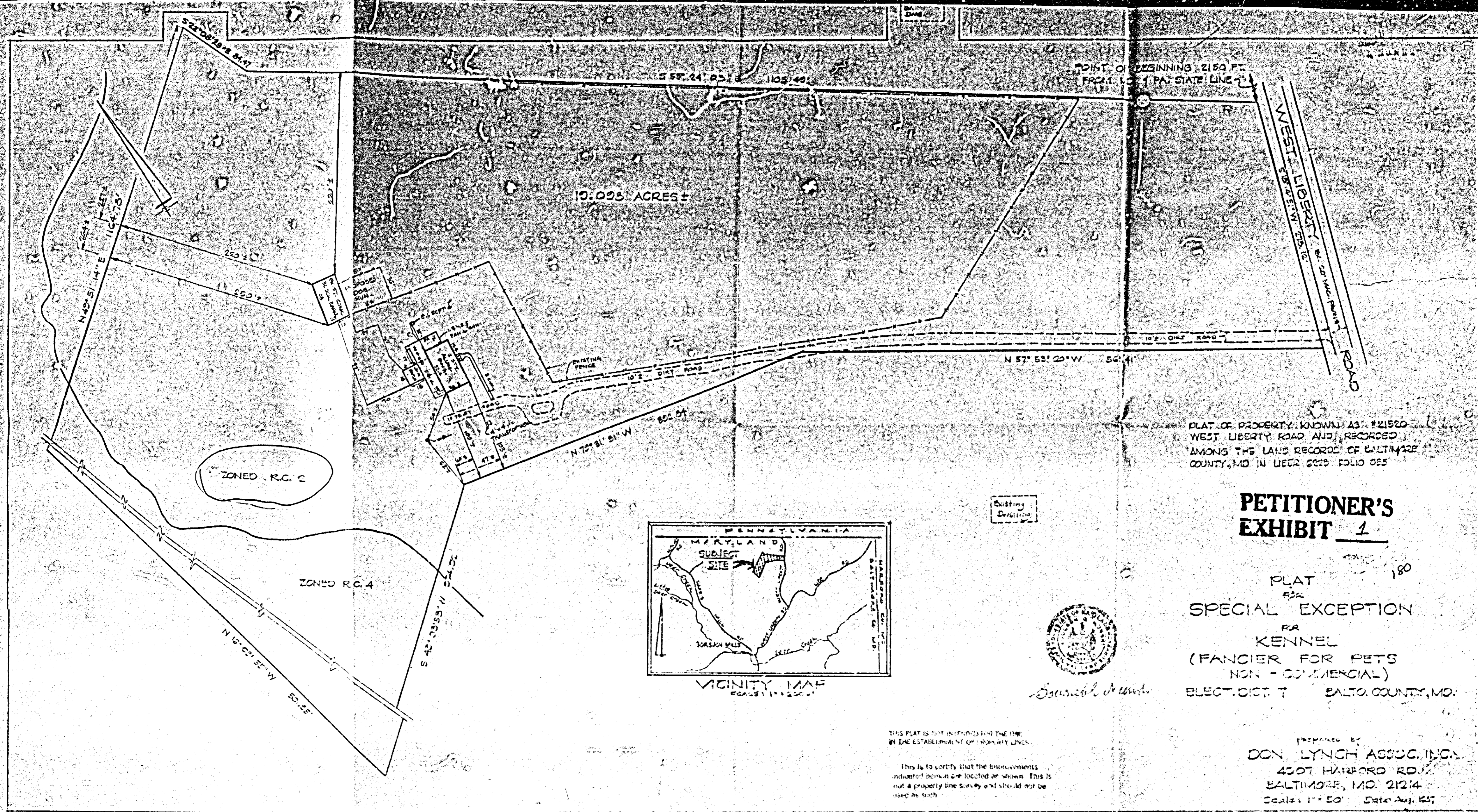
SUBJECT: Zoning Petition No. 88-333-X

This office is not opposed to the granting of the subject request, but suggests that boundaries of the special exception be limited to the area devoted to the kennel operations and not to the entire property.

*P. David Fields*  
P. David Fields  
Director

PDF:JCH:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel  
File



NE 396